

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR BLUE EARTH COUNTY, MINNESOTA

In the Matter of the Revenue Recapture  
Hearing, Blue Earth County Human  
Services v. Connie Steffen

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

The above entitled matter came on for hearing before Administrative Law Judge Scott Newman commencing at 9:30 A.M. on May 13, 2008 at the Blue Earth County Human Services Office. The hearing was held in accordance with a Notice and Order for Hearing dated April 28, 2008.

Mark Lindahl, Assistant Blue Earth County Attorney, appeared on behalf of Blue Earth County ("County"). Connie Steffen ("Appellant") appeared pro se and on her own behalf.

There being no procedural objections made by either party and it appearing that both parties were present and prepared to proceed, the hearing was held with the record being closed on May 13, 2008 at the conclusion of the hearing.

**STATEMENT OF THE ISSUES**

1. Whether the County may collect payment on the alleged debt under the collection procedures set forth in the Revenue Recapture Act, Minn. Stat. §§ 270A.01-270A.12.

2. Whether the County has sustained its burden of proof as to the amounts due on the alleged debt.

3. Whether the County's Revenue Recapture Claim should be dismissed on the basis of the following affirmative defenses:

- a) Coercion;
- b) Improper or inappropriate action by the County in placing the Appellant's son in foster care.

Based upon the files, records and proceedings herein, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

1. On May 17, 2007, an emergency review hearing was held before the Honorable Bradley C. Walker, Judge of District Court at the Blue Earth County Courthouse in Mankato Minnesota. The appellant herein, mother of LWJ, a minor, was present at that hearing. As a result of that hearing, it was ordered that the custody of LWJ be transferred to Blue Earth County for immediate placement in foster care, that the appellant be allowed visitation of the child as determined by Blue Earth County and that the appellant shall cooperate with Blue Earth County in transferring LWJ to foster care and providing any items necessary for the child's health, health care and comfort.<sup>1</sup>

2. On July 18, 2007, a hearing was held before the Honorable Bradley C. Walker, Judge of District Court, at Blue Earth County Courthouse concerning the welfare of LWJ. Appellant was present at that hearing. Following the hearing, it was ordered that LWJ shall remain in the custody of Blue Earth County with continued placement in foster care. It was further ordered that the total income and resources attributable to LWJ shall be assigned to the County (Blue Earth County) for reimbursement for the cost of the child's care. Specifically included in that assignment was "child support" payments.<sup>2</sup>

3. On June 18, 2007, Appellant petitioned Blue Earth County Human Services for a waiver of parental contribution and child support which was claimed by the County.<sup>3</sup>

4. On July 18, 2007, the Appellant signed an Agreement running in favor of Blue Earth County agreeing to reimburse Blue Earth County Human Services the sum of \$4.00 per month for each month LWJ was in placement with Blue Earth County Human Services and be responsible for all medical expenses. The Agreement further stated that the contribution was to begin on May 17, 2007.<sup>4</sup>

5. On August 20, 2007 the County informed the Appellant that her Petition for waiver was denied.<sup>5</sup>

6. On August 31, 2007 a hearing was held before the Honorable Bradley C. Walker, Judge of District Court, at Blue Earth County Courthouse Mankato Minnesota. Appellant was present at that hearing. As a result of said hearing, custody remained with Blue Earth County, but LWJ would remain on extended trial home visit with the Appellant. The Order further provided that there would be no obligation for the parents to reimburse Blue Earth County for foster care expenses after September 1, 2007.<sup>6</sup>

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<sup>1</sup> Ex. 1.

<sup>2</sup> Ex. 2.

<sup>3</sup> Ex. 15.

<sup>4</sup> Ex. 6.

<sup>5</sup> Ex. 7 and 15.

<sup>6</sup> Ex. 3.

7. The total claim by the County consists of parental contribution for placement with Blue Earth County Human Services for foster care May 17, 2007 through August 14, 2007 in the amount of \$16.00, child support payments received by the Appellant in the amount of \$1,300.60 from May 17, 2007 through August 14, 2007, and a mental health assessment charge incurred by the County on August 9, 2007 in the amount of \$124.00 for a total of \$1,440.60.<sup>7</sup>

8. On October 22, 2007, the Appellant orally agreed with the County to reimburse the County in the amount of \$1,440.60 at the rate of \$30.00 per month, beginning no later than October 31, 2007.<sup>8</sup>

9. Between May 17, 2007 and August 31, 2007, child support payments in the amount of \$1,300.60 were paid by the minor child's father to the Lincoln-Lyon County Human Services Department.<sup>9</sup>

10. Sometime after September 1, 2007, Lincoln-Lyon County Human Services paid to the Appellant child support payments in the amount of \$1,300.60.<sup>10</sup>

11. Despite repeated requests, the Appellant has not paid any portion of the claimed \$1,440.60 to the County.<sup>11</sup>

12. On March 7, 2008, the County placed the Appellant on notice of the County's intent to proceed with collection of the debt under the Minnesota Revenue Recapture Act, Minn. Stat. ch. 270A.<sup>12</sup>

13. On April 20, 2008, the Appellant notified the County in writing of her request for an appeal hearing to contest the validity of the County's claim.<sup>13</sup>

14. A hearing was held in accordance with the request for appeal filed by the Appellant before the undersigned Administrative Law Judge on May 13, 2008, at 9:30 a.m., at Blue Earth County Human Services in Mankato, Minnesota, all in accordance with the Notice and Order for Hearing filed herein.

15. The Appellant testified that she was "forced" to sign the MA Parental Contribution Calculation and Agreement (Ex. 6) by County employees "if she ever wanted to get her son back."<sup>14</sup>

16. The Appellant also testified at various times during the hearing as follows:

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<sup>7</sup> Ex. 13.

<sup>8</sup> Exs. 5 and 14.

<sup>9</sup> Testimony of Sheila Westphal and testimony of Appellant.

<sup>10</sup> Test. of S. Westphal and test. of Appellant.

<sup>11</sup> Test. of S. Westphal and test. of Appellant; Ex. 5.

<sup>12</sup> Ex. 9.

<sup>13</sup> Ex. 10.

<sup>14</sup> Test. of Appellant.

a. That she agreed that she owed “something,” but offered no evidence as to what that amount may be.

b. She needed child support payments to meet her expenses which included apartment rent, food and entertainment expense.

c. She was not responsible for any foster care expenses because the County was wrong for placing her son in foster care.

d. She would pay the amount claimed, but for the fact that she lost her job on October 14, 2007, and to date remains unemployed.

e. If given additional time to pay the amount claimed, she felt she could obtain the funds from “other sources.”<sup>15</sup>

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. §§ 270A.07 thru 270A.12.

2. The Notice of Hearing is proper in all respects and the County has complied with all substantive and procedural requirements of law and rule.

3. The County has the right to collect payment from the appellant for child support payments, foster care expenses and unreimbursed medical expenses incurred by the County under the collection procedure set forth in the Revenue Recapture Act, Minn. Stat. §§ 270A.01 thru 270A.12.

4. The County proved by a preponderance of the evidence that the Appellant owes it the sum of \$1,440.60.

5. The Appellant failed to prove by a preponderance of the evidence that the County coerced her into assuming the debt.

6. The Appellant failed to prove by a preponderance of the evidence that the County has acted improperly in the way it has tried to collect the debt.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

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<sup>15</sup> Test. of Appellant.

## ORDER

### IT IS HEREBY ORDERED that:

1. The Appellant's appeal from the County's collection under the Revenue Recapture Act is hereby **DENIED**.
2. Blue Earth County Human Services may proceed with its request to the Department of Revenue to collect the sum of \$1,440.60 by means of the Minnesota Revenue Recapture Act.

Dated: June 9, 2008

s/Scott J. Newman

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SCOTT J. NEWMAN

Administrative Law Judge

Reported: Digitally Recorded

## NOTICE

This is a final decision. It is subject to judicial review as set forth in Minn. Stat. §§ 14.63 to 14.68 (2000). Any appeal must be filed with the Minnesota Court of Appeals and served upon the other party within thirty days of the receipt of this Order.

## MEMORANDUM

Exhibits 1, 2 and 3 are District Court Orders which placed custody of the Appellant's minor child with Blue Earth County for placement in foster care. Specifically, Exhibit No. 2 assigns by Court Order child support payments to Blue Earth County for the time that the minor child was in foster care. It is undisputed that child support payments in the amount of \$1,300.60 were paid to the Appellant and this sum represents child support payments for the time that the minor child was in foster care.

Exhibit No. 6 is a document signed by the Appellant wherein she agrees to pay the parental contribution of four dollars per month for foster care, and be responsible for all medical expenses on behalf of the minor. Therefore, Blue Earth County is entitled to be reimbursed in the amount of \$124.00 for unreimbursed medical expenses incurred by the minor and the sum of \$16.00 for foster care which the Appellant agreed to pay.

Taken as a whole, Exhibits 1-15 overwhelmingly prove that the Appellant is indebted to Blue Earth County in the amount of \$1,440.60. More problematic is the question of whether the Appellant should be excused from repaying Blue Earth County because of allegations of inappropriate conduct on the part of County employees. The Appellant has offered a variety of reasons why she should not be responsible for the

debt which is the subject of this action. The reasons given by the Appellant have been taken by the undersigned as affirmative defenses and include:

1. That she needed the child support payments to meet her current living expenses. Minnesota Law is well established that child support payments are to be used for the benefit of the minor child and not the parent. Moreover, Exhibit B specifically ordered that the child support payments in question were assigned and to be paid to Blue Earth County.

2. She felt she was not responsible for the underlying expenses because the County was wrong for placing her child in foster care. Note should be taken that the Appellant was present at all three of the court appearances described in Exhibits 1, 2 and 3 herein. In addition, Minn. Stat. § 270A.09, subd. 2, specifically states that no issue may be raised at a Revenue Recapture Hearing which has been previously litigated. On the basis of that statute, it is the position of the Administrative Law Judge that the Office of Administrative Hearings does not have jurisdiction to re-determine the appropriateness of whether the minor child should have been placed in foster care.

3. The Appellant asks to be excused from payment because she is currently unemployed. Unemployment or underemployment is not a legal defense to the Minnesota Revenue Recapture Act, Minn. Stat. § 270A.01, *et. seq.*

4. The Appellant states that if given additional time she would pay the amount claimed from other sources, and at other times during her testimony admits that she owes the County certain sums but offers no proof of the amount she owes. Such “admissions” are completely at odds with her affirmative defense of coercion and the defenses raised at Paragraphs 1-3 hereof.

In evaluating the credibility of the testimony of a witness, the fact finder may take into consideration the following factors:

- a. Will a witness gain or lose if the case is decided in a certain way?
- b. What is the witness’s relationship to the parties?
- c. How did the witness learn the facts?
- d. What was the witness’s manner?
- e. Did the witness seem honest and sincere?
- f. Was the witness frank and direct?
- g. Is the witness’s testimony reasonable compared with other evidence?
- h. Are there any other factors that bear on believability and weight?
- i. In addition, the fact finder should “rely on your experience, good judgment and common sense.”<sup>16</sup>

Using these factors as guidelines in evaluating the testimony of the Appellant, it is clear that her testimony is not credible or accurate. Rather, the Appellant used a shotgun approach leveling every excuse she could think of as a reason for not fulfilling

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<sup>16</sup> CIVJIG 12.15 Evaluation of Testimony-Credibility of Witnesses.

her legal obligation to reimburse Blue Earth County for child support she improperly received and for medical expenses and foster care incurred for the benefit of her child.

**S. J. N.**